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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,921	05/09/2005	Kazuhiro Gono	18871	1792
23389 7590 06/10/2010 SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530				
EXAMINER				
CATTUNGAL, SANJAY				
ART UNIT		PAPER NUMBER		
3768				
MAIL DATE		DELIVERY MODE		
06/10/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/534,921

Applicant(s)

GONO, KAZUHIRO

Examiner

SANJAY CATTUNGAL

Art Unit

3768

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2010.
2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 5-27 is/are pending in the application.
4a) Of the above claim(s) 19-27 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1, 2, 5-18 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 09 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/20/2010 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1, 2, and 5-16, are rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 6,697,652 to Georgakoudi et al. in view of U. S. Patent No. 6,293,911 to Imaizumi et al.**

4. Regarding **Claims 1 and 11**, (112 6th Paragraph –Means Plus Function- has been invoked)

5. Georgakoudi teaches an imaging apparatus, comprising: a light source device (Fig. 1 element 14); an image pickup device for converting a living body observed image by using light irradiated from the light source device for observation (Col. 1 lines 49-51 and lines 54-56; and Fig. 1 element 32 and 34, detect an image); and a processor for

generating a living body image from the images, wherein the processor has means for generating a living body image having at least a scattering feature of a living body tissue as image information (Fig. 1 element 32 and 34) wherein the image represents a degree of nucleus change in diameter (fig. 8 and claim 6); wherein light source irradiates a plurality of band light beams in blue light by switching to a field sequential light (fig. 1 element 16 is a field sequential light, col. 2 line 58 and col. 6 line 27 teaches excitation at 412 nm excitation light which is a blue wavelength, col. 7 lines 62-64 teaches excitation at 410 nm which is a blue light; col. 8 lines 7-10 teaches 11 different wavelengths in a sequential light between 397 and 610 n, and col. 8 lines 29-33 talk about 412 nm and 470 nm which are both blue light).

6. Georgakoudi does not expressly teach the use of video signals from color images.

7. Imaizumi teaches the use of video signals to display the scattering from color images (claim 21).

8. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Georgakoudi to use video signal to display scattering as taught by Imaizumi since such a setup would result in a continuous display of the scattering as such the results could be viewed more quickly/efficiently, moreover use of color images would help in distinguishing between different tissue as such would result in precise diagnosis.

9. Regarding **Claim 2**, Georgakoudi teaches that the image pickup device is an endoscope (Claim 15).

10. Regarding **Claim 5**, (112 6th Paragraph –Means Plus Function- has been invoked)
11. Georgakoudi teaches that the processor has means for estimating (fig. 1 element 32 and 34), from at least one living body image, spectrums corresponding to positions and/or an area in the image (fig. 8 and claim 6 teaches detecting diameter size and change in diameter which is position in a target cell).
12. Regarding **claim 6**, Georgakoudi teaches that the means for estimating the spectrum have at least one matrix computer (fig. 1 element 34, since all computer are matrix computers).
13. Regarding **claim 7**, Georgakoudi teaches using distinct wavelengths (col. 6 lines 14-17 teach 412 nm excitation) and scattering coefficients to determine spectrums (col. 6 lines 57-65).
14. Regarding **Claim 8**, Georgakoudi teaches a light-scattering-model analysis (fig. 8 which is a light propagation model analysis).
15. Regarding **Claim 9**, (112 6th Paragraph –Means Plus Function- has been invoked)
16. Georgakoudi teaches means for estimating (fig. 1 element 32 and 34), scattering feature to determine position (claim 1 teaches using scattered spectrum to determine size of structure within a tissue, which is a position in a target cell).
17. Regarding **Claim 10**, (112 6th Paragraph –Means Plus Function- has been invoked)

18. Georgakoudi teaches scattering has means for projecting (fig. 1 element 32 and 34), at least one vector in a spectrum space (fig. 6 teaches projected properties of tissue, as a function of wavelength, based on scattering properties of tissue).
19. Regarding **Claim 12** and 15, (112 6th Paragraph –Means Plus Function- has been invoked)
20. Imaizumi teaches means for generating color image (fig. 1 element 54) absorption feature of living tissue (col. 33 lines 4-7).
21. Regarding **claims 13-15**, (112 6th Paragraph –Means Plus Function- has been invoked)
22. Imaizumi teaches means for generating color image (fig. 1 element 54) and scattering image being displayed simultaneously (col. 45 lines 62-65, wherein fluorescence image is a scattering image).
23. Regarding **claim 16**, Imaizumi teaches generating a normal light image, under illumination of white light (col. 45 lines 62-65, light source is a white light as define by wavelengths in fig. 2).
24. **Claims 17 and 18, are rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 6,697,652 to Georgakoudi et al. in view of U. S. Patent No. 6,293,911 to Imaizumi et al. further in view of U. S. Patent No. 6,161,031 to Hochman et al.**
25. Regarding Claims 17 and 18, Georgakoudi and Imaizumi teach all of the above claimed limitations but do not expressly teach the use of spatial frequency filtering being done by the processor means.

26. Hochman teaches spatial frequency filtering being done by image processor to smooth out the image (col. 21 lines 7-13).

27. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Georgakoudi and Imaizumi with spatial frequency filtering as taught by Hochman since such a setup would result in smoothing out the image and reducing noise (col. 21 lines 7-10).

Response to Arguments

28. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SANJAY CATTUNGAL whose telephone number is (571)272-1306. The examiner can normally be reached on Monday-Friday 9-5.

30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on (571) 272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

31. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SANJAY CATTUNGAL/
Examiner, Art Unit 3768